IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.3755 of 2005
In
Criminal Appeal No.952 of 2004

Shrihari Rajlingam Guntuka Applicant
Vs.
The State of Maharashtra Respondent

Mr.Majeed Memon with Mr.Wajid Hussain Syed for applicant.
Ms.A.S.Pai, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.
February 08, 2006.

P.C.

. We have heard Mr.Memon with M. Wajid Hussain, the learned counsel for the applicant. His Criminal Appeal No.952 of 2004 against the order of conviction and sentence for the offence punishable under Section 302 of IPC is pending before this Court. The applicant prays for being released on bail pending appeal. Vide our order dated 23-1-2006 we had granted liberty to the learned counsel to approach Court No.9 with an application for early date of hearing but on account of the paper book not being ready the pending appeal cannot be listed for final hearing as at present and, therefore, this application came up before us for fresh hearing.

. We have considered the arguments advanced

before us by Mr.Memon and more particularly the affidavit filed by Suryakant Maruti Kirve, PW 1 who was the complainant and brother of the deceased, before the Human Rights Commission. We have also noted that initially the prosecution case was based on the evidence of five eye witnesses viz. PWs 1 to 4 and PW 6. However, PWs 2 to 4 and 6 turned hostile and the learned Judge of the trial Court has considered the evidence of the sole eye witness PW 1 who is the brother of the deceased and found the evidence to be natural and reliable.

. We are not convinced that this is a fit case for being released on bail by suspending the order of sentence under Section 389 of Cr.P.C. However, we are satisfied that the pending appeal deserves to be heard expeditiously and, therefore, we grant liberty to the applicant to submit private paper book to be certified by the Registry and to apply for early hearing of the appeal.

(SMT.R.S.DALVI,J.) (B.H.MARLAPALLE,J.)